

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:12-cv-00354-MR
(CRIMINAL CASE NO. 1:00-cr-00057-MR-1)**

ANGELA JORDAN,)

Petitioner,)

VS.

UNITED STATES OF AMERICA,

Respondent.)

ORDER

THIS MATTER is before the Court on the Petitioner's Motion to Vacate, Set Aside, or Correct Sentence, filed under 28 U.S.C. § 2255 or, in the Alternative, under 28 U.S.C. § 2241, or through a Writ of Error Coram Nobis, or a Writ of Audita Querela [Doc. 3].

On December 18, 2014, the Petitioner filed a motion to reduce her sentence in her criminal case pursuant to 18 U.S.C. § 3582 and Guidelines Amendments 780/782. [Criminal Case No. 1:00-cr-00057-MR-1 (“CR”), Doc. 144]. The Government filed a response in support of Petitioner’s motion. [CR Doc. 149]. On January 9, 2015, the Court granted the Petitioner’s § 3582 motion and reduced her sentence to time served. [CR Doc. 150]. The Petitioner has been released from confinement and has begun her three-

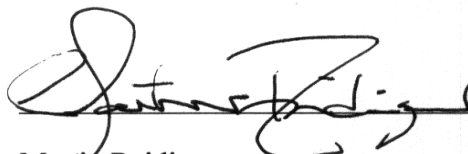
year term of supervised release imposed as a part of her original sentence.
[See CR Doc. 60 at 3].

By the present motion, the Petitioner seeks resentencing without the application of the mandatory minimum resulting from the filing of a 21 U.S.C. § 851 Information in her criminal case. [See CR Doc. 3]. As her basis for seeking such relief, the Petitioner contends that her underlying North Carolina drug trafficking conviction is not a predicate “felony drug offense,” as defined by 21 U.S.C. § 802(44), citing United States v. Simmons, 649 F.3d 237 (4th Cir. 2011) (en banc). [Doc. 3 at 4-15]. The Government has filed a response supporting the Petitioner’s contention. [Doc. 15]. The Petitioner, however, already has been released from her term of imprisonment, and any reduction to which she might have been entitled without the § 851 enhancement would have no effect on the length of her term of supervised release. Accordingly, the Petitioner’s motion is moot and shall be denied as moot.

IT IS, THEREFORE, ORDERED that the Petitioner’s Motion [Doc. 3] is **DENIED AS MOOT**.

IT IS SO ORDERED.

Signed: May 14, 2015


Martin Reidinger
United States District Judge

